

**ONTARIO CIVILIAN COMMISSION ON
POLICE SERVICES**

Annual Report



2004

Contact us at:

Ontario Civilian Commission on Police Services
25 Grosvenor Street, 1st Floor
Toronto, Ontario
M7A 1Y6

Telephone: (416) 314-3004

Fax: (416) 314-0198

Web Site: www.occps.ca

For public complaints information: (416) 326-1189

Public complaints fax line: (416) 314-2036

Toll free phone: (888) 515-5005

Toll free fax: (888) 311-7555

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Mission Statement

The Ontario Civilian Commission on Police Services is an independent oversight agency committed to serving the public by ensuring that adequate and effective policing services are provided to the community in a fair and accountable manner.

Chair's Message

I am pleased to present the Annual Report for the Ontario Civilian Commission on Police Services for 2004.

As well as providing an overview of the Commission's activities for the year, the report also includes summaries of hearings and investigations conducted throughout the year.

Our role at the Commission is to act independently as an oversight agency of police services. We are committed to serving the public and ensuring that there is adequate and effective policing in Ontario.

We are committed to fairness of proceedings in public complaints against police officers and disciplinary appeals of police officers.

Each year we work hard to enhance our operational, procedural and policy framework to meet our legislative authority.

Commission decisions on various adjudicative proceedings held during the year appear on our website at www.occps.ca. There, you will also find the Commission's protocols for Abolition and Reduction Hearings, Budget Hearings and Amalgamation Hearings.

Murray W. Chitra, Chair
Ontario Civilian Commission on Police Services

Role of the Commission

The Ontario Civilian Commission on Police Services is an arm's length, quasi-judicial agency of the Ministry of Community Safety and Correctional Services. The Commission reports to the Minister of Community Safety and Correctional Services.

The mandate and duties of the Commission are set out in the *Police Services Act*. They are primarily adjudicative in nature and include:

- hearing police officer appeals of disciplinary penalties;
- adjudicating disputes between municipal councils and police services boards involving budget matters;
- conducting hearings into requests for the reduction, abolition, creation or amalgamation of police services;
- conducting investigations and inquiries into the conduct of chiefs of police, police officers and members of police services boards;
- determining the status of police service members;
- conducting reviews of local decisions relating to public complaints at the request of complainants; and,
- general enforcement relating to the adequacy and effectiveness of policing services.

In Ontario, police services and police services boards are ultimately accountable to the public through the Commission.

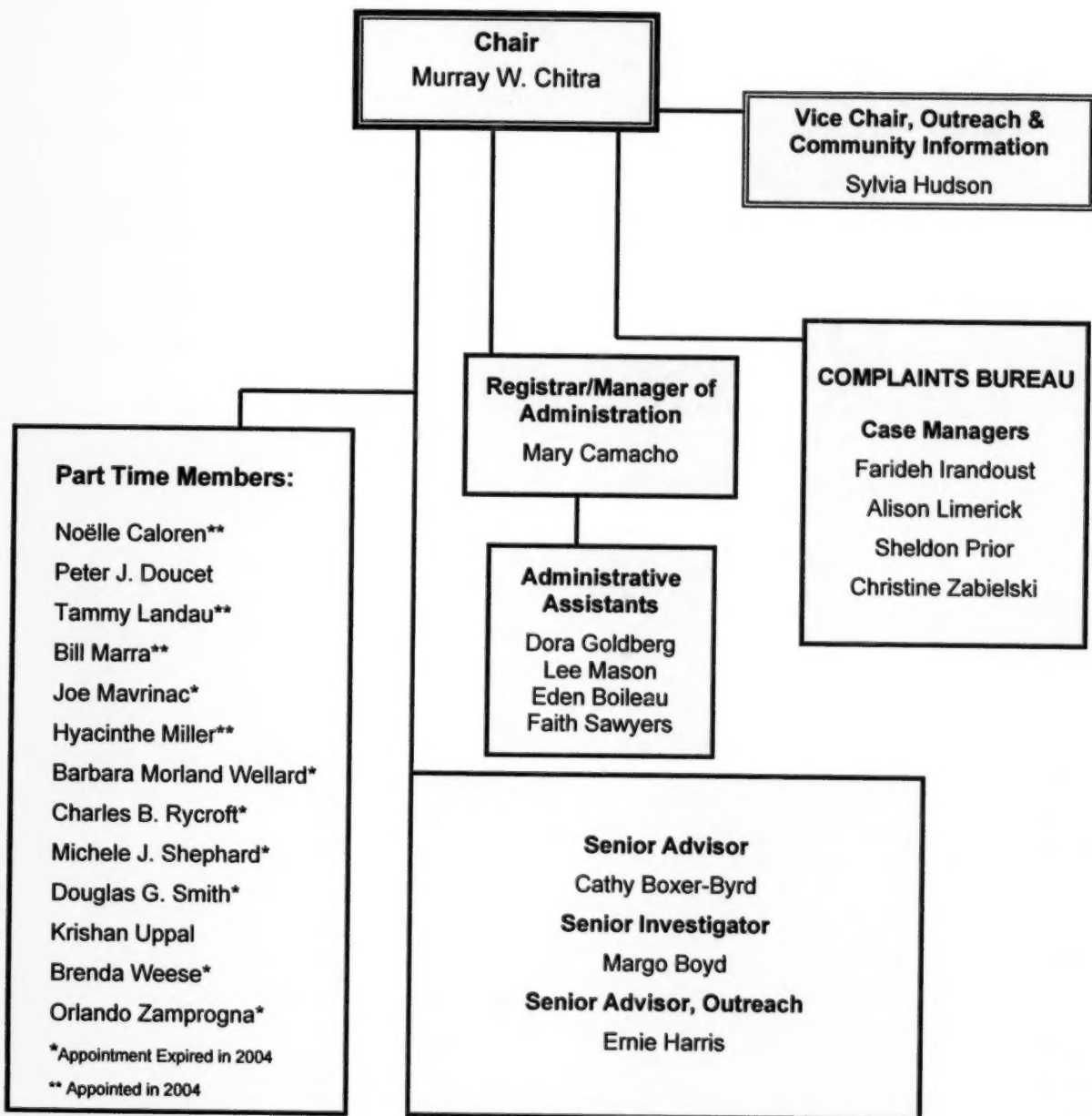
Commission Organization

In 2004 the Commission had a full-time Chair and a Vice Chair, Outreach and Community Information. In addition there were 7 part-time members whose appointments expired in 2004 and 4 new part-time appointments made to the Commission.

Members are appointed by Order-in-Council for normally terms of 3 years. The men and women who serve on the Commission represent a diverse cross-section of professions and communities across Ontario. There is a small core of administrative, investigative and advisory staff supporting the work of the Commission.

The entire Commission meets in Toronto monthly. Members also participate regularly on panels to review local police service decisions concerning the classification and investigation of public complaints about the conduct of police officers. They also preside at various types of quasi-judicial proceedings.

Organization Chart 2004



Commission Budget 2004

The annual budget for the Ontario Civilian Commission on Police Services for the calendar year 2003/2004 was \$1,647,500.

The following is a breakdown of the allocated budget:

ITEM	ALLOCATION (\$000)
Salaries & Wages	1,447.9
Employee Benefits	160.8
Transportation & Communications	12.1
Services	19.2
Supplies & Equipment	6.5
Transfer Payments •	1.0
Total	1,647,500

• Statutory Appropriation: Hearings under the *Police Services Act*

Members of the Commission

Murray W. Chitra - Chair

Prior to his appointment to the Chair of the Commission, Mr. Chitra was the Legal Director for the Ontario Insurance Commission (OIC) for four years. As well, Mr. Chitra worked for ten years with the Legal Services Branch of the Ministry of Correctional Services assigned for six years as Legal Director. He was called to the Bar in Ontario in 1980. Mr. Chitra is the President of the Society of Ontario Adjudicators and Regulators (SOAR) and a Director of the Council of Canadian Administrative Tribunals (CCAT).

Sylvia Hudson - Vice-Chair, Outreach and Community Information

Sylvia Hudson is a past member and Vice-Chair of the Race Relations Committee of a large city Police Services Board, where she served as Vice-Chair of the Race Relations Committee. Prior to joining the Commission, Ms Hudson was a member of the Social Benefits Tribunal. Her educational background is in social work, public administration and business and community services. She has many years experience working with community agencies serving youth and individuals at risk.

Noëlle Caloren

Noëlle Caloren is a lawyer who was called to the Ontario Bar in 1995. She practices law in a large national Canadian law firm. With a background in general litigation, Ms. Caloren has developed an expertise in employment and labour law, human rights and education law matters. Over the last six years, Ms. Caloren has taught Civil Procedure at the Bar Admission Course of the Law Society of Upper Canada. She is also a contributing author to a comprehensive employment law text *Employment Law – Solutions for the Canadian workplace*. Ms. Caloren is fluently bilingual.

Peter J. Doucet - Member

Mr. Doucet was called to the Ontario Bar in 1984. He is currently the principal of a broadly-based legal practice serving clients from across Northern Ontario and various regions of Canada, the United States and internationally. He is actively involved in the community, but his business and personal interests extend to provincial, national and international issues. Mr. Doucet is fluently bilingual.

Dr. Tammy Landau - Member

Tammy Landau is Associate Professor in the School of Criminal Justice at Ryerson University. She has a PhD in Criminology from the Centre of Criminology at the University of Toronto, and has been involved in a wide range of community projects and agencies. Dr. Landau has been a consultant to federal, provincial and local governments on a variety of justice issues. Her research interests include policing, Aboriginal justice and victimology.

Biagio (Bill) Marra - Member

Mr. Bill Marra is a graduate of the University of Windsor. He has worked in the criminal justice field since 1988. Mr. Marra is currently the executive director of an agency, which provides residential and non-residential youth services for young offenders, at risk youth and foster care youth. He is very active in his community serving on several other committees/boards including as first vice-chair of a Hospital Board. From 1994 to 2003, Mr. Marra served as a member of city council in his home community. During his tenure on city council he served on over two-dozen committees, boards and commissions including as chairperson of the local police services board. Mr. Marra was also very active at the national level as a five-year board member of the Federation of Canadian Municipalities where he chaired two national standing committees related to community safety, corrections and national parole.

Joseph (Joe) Mavrinac - Member

Mr. Mavrinac served for six consecutive terms as Mayor of his community. He was for 15 years a member of his community's police services board, serving 14 years as Chair. Prior to his appointment to the Commission, Mr. Mavrinac was for many years the owner of hotels. He subsequently served six consecutive terms as Mayor of his community. Prior to his appointment to the Commission he spent a two-year term as Chair of the Ontario Realty Corporation. He has served as President of three hotel/motel associations, President of the Association of Municipalities of Ontario and Director of the Federation of Canadian Municipalities.

Hyacinthe Miller – Member

Following graduation from university, Ms. Miller worked in the private sector and for the federal and provincial governments in Ontario. She has also been active in various community agencies. During her career, Ms. Miller has been a senior manager, a technology consultant and general advisor to federal and provincial government ministries and central agency officials, law enforcement agencies and civilian oversight organizations. Currently an organizational development consultant, Ms. Miller is also Executive Director of the Canadian Association for Civilian Oversight of Law Enforcement.

Barbara Morland Wellard - Member

Ms. Wellard was called to the bar in 1980 and is currently a partner in a law firm located in a Northern community. She served as part-time member of the former Board of Inquiry established under the authority of the Police Services Act, 1990. Ms. Wellard was a founding member and Chair of the Board of a Transition House, which housed and assisted abused women and their children. Ms. Wellard continues to be active with many other community organizations.

Charles B. Rycroft - Member

Mr. Rycroft is a businessman and has been involved in the manufacturing industry for 28 years. He is a veteran of the Royal Canadian Armoured Corps and the Royal Canadian Air Force where he served from 1943 to 1946. He is past president of the Ontario Regiment Association and Durham Region's Rotary Club. Mr. Rycroft served as Special Investigator and Intelligence/Liaison Officer for the Liquor Licence Board of Ontario from 1982 to 1989. He was also a member for two school boards in his community and served as a member of the Guaranty Trust Advisory Board.

Michele J. Shephard - Member

Ms. Shephard is a past member of the Board of Directors for the Women's Habitat of Etobicoke, a shelter for abused women and their children. She chaired the Fund Raising Committee for four years and the Properties Committee for three years. Ms. Shephard was also a volunteer with the Children's Aid Society of Metropolitan Toronto and has been involved in many community fund raising activities in the Greater Toronto Area. Ms. Shephard is a former member of the Toronto Real Estate Board and since 1974 has been a successful businesswoman.

G. Douglas Smith - Member

Mr. Smith is a lawyer who was called to the Bar in 1975 and is the founding member of the law firm of Smith Hardy & Miller. He is a former member of his community's Volunteer Fire Department and also a former member of the Council of the Canadian Bar Association Ontario and is a former Director of the Almaguin Health Services Board.

Krishan D. Uppal, B.A, B.T, MSW - Member

Mr. Uppal studied extensively in India and Europe. He has had a distinguished career in community work and public service. He is the recipient of the Queen's Golden Jubilee Medal, the Governor General's Medal and the Ontario Ministry of Citizenship's Outstanding Achievement Award in recognition of his significant contribution to compatriots, Aboriginal Peoples and to Canada. Mr. Uppal has served on numerous boards and commissions, and, also as President of the India-Canada Association and the National Association of Canadians of Origins in India, Ottawa Chapter. He is retired from the federal Public Service of Canada.

Brenda Lee Weese - Member

Mrs. Weese is a nurse currently working in geriatric medicine. Her experience includes nine years in municipal government, eight years of which were as Reeve of her municipality, with one year served as Warden of an Eastern Ontario county. Mrs. Weese served on the executive for the Business and Professional Women's Club. She also served two years as chairperson of the Social Service Committee and one year as chairperson of the Waste Management Committee. Mrs. Weese is active in local hospital and Children's Aid Society fundraising and served a two-year term on the area's Children's Aid Society Board of Directors.

Orlando Zamprogna - Member

Mr. Zamprogna is a professional engineer and currently is employed at a University in southwestern Ontario. He served for nine years as a member of his city's Police Services Board. He was also elected as a municipal councilor and Deputy Mayor in his community. Mr. Zamprogna has served on many public boards and committees as well as been involved in several charitable organizations.

Report on Outreach and Community Information Activities

The main focus of the Outreach Team for 2004 was the continued implementation of the three-year Strategic Outreach Plan developed by the Commission's Ad Hoc Committee, as reported in the 2003 annual report. The Outreach Mandate Statement approved in 2003 called for a multi-faceted approach to Outreach. This included, among other things, significant involvement of Commission members in Outreach activities as their schedules allowed. As a result, there was an increase in the participation of members in public activities aimed at creating awareness about the Commission.

As a follow up to the series of consultations held with ethno-cultural groups in the GTA in 2003, the Outreach Bureau narrowed its focus to address the awareness needs of groups that had the greatest potential of reaching people who may come in contact with law enforcement personnel. These groups need to understand how the complaints system works so that they could inform their clientele. The outcome of this orientation was that the Outreach Team visited and trained staff in over fifteen social agencies that provide frontline services to marginalized clients groups. For example, visits were made and training conducted at Salvation Army Toronto, Horizons for Youth, Fred Victor Mission, SEAS Drop-in Centre, Covenant House, Yonge Street Mission, COSTI Immigrant Services, Kosovo Community Centre, Centre for Information and Community Services – Chinese, Hamilton House Refugee Project, Operation Springboard, Lighthouse Community Centre and Victims' Services, to mention just a few.

The pamphlet distribution campaign that began in 2003 continued in 2004. The English and French versions of the brochure "Understanding the Public Complaint Process" was revised with the general public in mind. Also introduced in 2004 was the pamphlet *"OCCPS: Who We Are and What We Do"* aimed at providing the general public with a user-friendly look at the Commission and its function. Over a thousand of these pamphlets were handed out at various outreach initiatives. In addition, efforts were made to improve the Commission's website. The addition of photographs highlighting Outreach activities has helped to make the site user-friendly. There has been increased activity on the Commission website during the last year.

Starting with its participation in the joint Rural Ontario Municipalities Association (ROMA) Ontario Good Roads Association (OGRA) Conference in February 2004, the Commission has taken every opportunity to promote awareness by setting up information booths at the Ontario Association of Chiefs of Police (OACP) Conference 2004, Ontario Association of Police Services Boards (OAPSB) Conference 2004, The Association of Municipalities of Ontario (AMO) Conference 2004, and at Youth Justice Law Day, a Public Information Forum that brought together Judges, Crown Attorneys and other experts concerned with youths in conflict with the law. Through these conferences the Commission was able to reach over 3000 of our stakeholders and provide them with information about the Commission as well as the Outreach mandate and activities. A positive

outcome of staffing booths at the various stakeholder conferences was the receipt of invitations to provide educational sessions to Local City/County Councils, Police Services Boards, OAPSB Zone meetings and ethno-cultural group functions.

The "Meet the Chiefs" visitation program was initiated to accomplish two main objectives. The first goal was to visit the local police service in order to introduce the Outreach Bureau staff and its mandate to Chiefs, their senior management teams and members of the Professional Standards Branch. The second objective was to learn about best practices in the administration of the public complaints system at the local level. In 2004 the Outreach Team visited twenty services in the North, South, East and West of the province and established positive working relationships with the senior management teams.

Reaching out to students at colleges and universities was another facet of the Outreach Program that received added attention in 2004. Formal presentations were developed and delivered to over 200 students in Justice Studies, Law & Security and Police Foundations at Centennial College, Georgian College in Barrie, Ryerson University and the University of Guelph-Humber. Presentations were also made to Sociology students at Brock University and TESL students at Niagara College. It is anticipated that these presentations will continue with new classes in 2005 and beyond.

In an effort to highlight the bridge-building aspect of its Outreach mandate, joint Community Information Forums were held with Windsor Police Service, Ottawa Community Police Advisory Committee, York Regional Chief's Community Council, Halton Chief's Community Council, Niagara Regional Police Service, Timmins Police Service, Cobourg City Council, Jane Finch Concerned Citizens Association, Ottawa Gay, Lesbian, Bisexual and Trans-gendered Group. The Forums also provided opportunities for community leaders to meet separately with the Outreach Team in order to discuss their concerns about civilian governance in general and the public complaints process in particular.

In 2004, the Commission took deliberate steps to establish working relationships with other governmental agencies with similar oversight mandates. The goal was twofold. First, the Outreach Team wanted to explore the possibility of developing joint outreach programs where that was possible. Secondly, the Outreach Team wanted to learn about the processes used by these organizations to gauge successful outcomes of their public education efforts. Links were established with the Canadian Race Relations Foundation, Ombudsman Ontario, Ontario Human Rights Commission, The Canadian Human Rights Commission, and the Special Investigation Unit (SIU). In the case of the SIU we were able to organize and deliver a joint public education session to the Jane-Finch Concerned Citizens Association. The link established with the United Kingdom's Independent Police Complaints Commission (IPCC) in 2003 continued in 2004 through the sharing of information about developments in the UK.

A significant initiative to enhance the understanding of the Commission in local communities was undertaken in 2004. Through attending ethno-cultural functions in local communities, the Outreach Team has accomplished two objectives: increased awareness about the Commission and greater understanding of community leaders' perception of the role and function of the Commission. The Vice Chair and Outreach Staff were invited speakers/guests in over two dozen community functions in 2004. Every opportunity was used to network and to solicit opportunities for more joint OCCPS/Community educational activities. For example, the Outreach Team's presence at the ABLE Awards Banquet, Peel Multicultural Council's Run Against Racism, The Governor General's Diversity Leadership Forum in Ottawa, Caribana Celebration in Toronto, Chinese New Year Celebration, Black History Month Celebration, Canadian Caribbean Association of Oakville, the St. Catharines Folk Arts Festival, Mother's Day Celebration of the St. Kitts Canadian Association and the annual meeting of the Jamaican Canadian Association have all helped in enhancing public awareness of the Commission and its mandate.

The Outreach Bureau ended 2004 with the introduction of another vehicle aimed at keeping the public informed about the work of the Commission in general but more specifically, about the ongoing efforts of the Outreach Bureau. Copies of ***Staying in Touch*** was introduced in December of 2004 as an informal news vehicle aimed at keeping people, organizations and stakeholders in the loop. During our many visits in 2004, the Outreach Team heard about the need to keep people informed about what was happening in the Commission. ***Staying in Touch*** fulfilled that commitment. The plan is to publish this update on a quarterly basis. The response to the first issue has been very positive.

In summary, the year 2004 has been a successful one. Through various initiatives the Outreach Team was able to meet and/or inform over 7500 people about the work of the Commission, visit twenty (20) Police Services in their local communities, attend conferences of our major stakeholders; distribute pamphlets and interact with ethno-cultural community groups as well as initiate a way to keep the public informed about the ongoing work of the Commission.

Inquiries, Investigations and Fact-Finding Reviews

An inquiry is commenced after the Commission is satisfied that based on a review of the evidence that has been collected through a formal investigation, this is the only remedy available.

Section 25 of the Police Services Act provides that the Commission may, "at the Solicitor General's request, at a municipal council's request, at a board's request or of its own motion, investigate, inquire into and report on:

- the conduct or the performance of duties of a police officer, a municipal chief of police, a special constable, a municipal law enforcement officer or a member of a board;
- the administration of a municipal police force;
- the manner in which police services are provided to a municipality;
- the police needs of a municipality.

Initiation of a section 25 inquiry is a serious, resource-intensive process with the potential for negative consequences for members, chiefs of police and police services boards found to be in non-compliance. Consequences can include demotion, dismissal, suspension or revocation of an appointment.

There were two (2) section 25 investigations commenced during the year 2004, one (1) Fact-Finding Review and the conclusion of a hearing stemming from a section 25 investigation commenced in 2003.

Two of the section 25 investigations involved the conduct of Police Service Board members.

The first involved a member of the Orangeville Police Services Board. The Commission stayed this investigation as the member resigned resulting in a loss of jurisdiction.

The second was with respect to a member of the Hamilton Police Services Board.

A public hearing in Toronto concerning the conduct of Board Chair Norm Gardner concluded with respect to numerous allegations involving the acquisition of a firearm and several thousand rounds of ammunition. A Commission decision was released on March 1, 2004, which was the subject of a judicial review. The Divisional Court released their decision on July 9, 2004 and, prior to a new hearing commencing, Mr. Gardner resigned his position.

In 1998 the Commission initiated an innovative approach to addressing those issues that were deemed to be of concern, but not falling within the parameters of a full-scale inquiry – the Fact-Finding review. This approach continues today.

There was one section 25 fact-finding conducted in Sault Ste. Marie.

Section 116 Status Hearings

Municipal police forces in Ontario are composed of "members" who are appointed by local police services boards. Section 2 of the Act defines "members" to include both police officers and civilian employees.

The Act permits members to form associations for the purposes of collective bargaining. Normally, there are two associations. There is an association for officers and civilians and another for senior officers. Under section 115(2) chiefs and deputy chiefs are excluded from this scheme.

From time to time a dispute arises as to whether or not a particular member should be assigned to the local police association or senior officers association. Section 116 of the Act sets out a process to resolve such disagreements. It states:

116(1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter.

(2) The Commission's decision is final.

There were no section 116 Status Hearings before the Commission during 2004. The full text of previous section 116 decisions can be found on the Commission's web site at www.occps.ca.

Police Service Restructuring Hearings (Section 40)

The Commission ensures that no municipal force is abolished unless arrangements have been made to meet the policing needs of the community. Any new arrangement must provide the infrastructure, (i.e. staff, equipment and facilities) to ensure adequate and effective police services. To this end the Commission reviews proposals accepted by Councils and considers all public comments and submissions.

Section 40 of the Police Services Act allows police services boards to terminate the employment of a member of a police force for the purpose of abolishing the force if the Commission consents and if the abolition does not contravene the Act.

When a municipality requests the approval of the Commission for the disbandment of their police service, they must supply the Commission with a copy of a resolution passed by municipal council. The Commission requests a copy of the proposal for the provision of alternative policing services and also ascertains whether severance arrangements have been made with those members whose employment would be terminated if the proposal is accepted.

It is not the Commission's function to judge whether or not what is being proposed is economical or superior to what may already be in place or any other alternative. The Commission's focus is to determine whether the proposed arrangements meet the requirements of the Act. It is not the function of the Commission to determine what constitutes appropriate severance arrangements. That is a matter for bargaining between the parties and, in the absence of agreement, for arbitration.

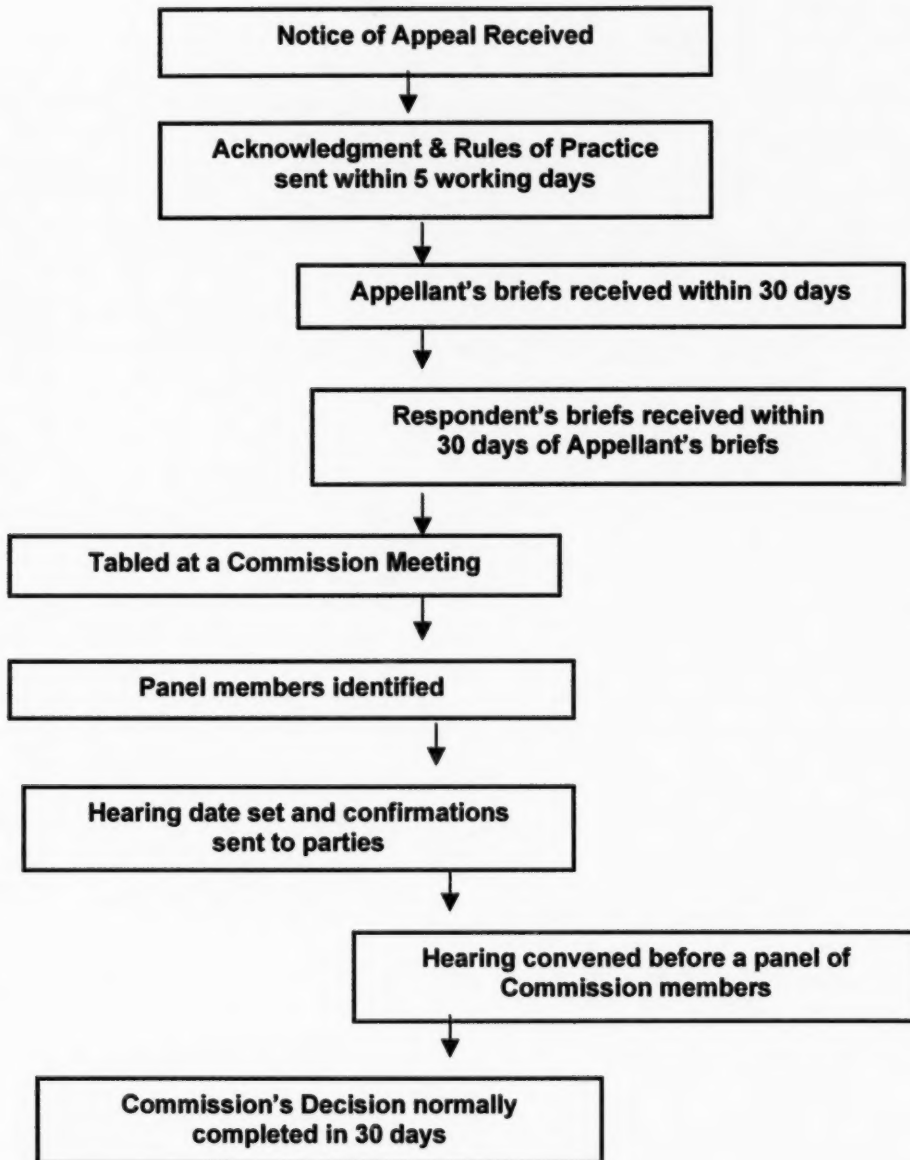
A public meeting is held to hear presentations and receive submissions. Upon the completion of the hearing, the Commission renders a written decision.

There were no restructuring hearings in the calendar year 2004.

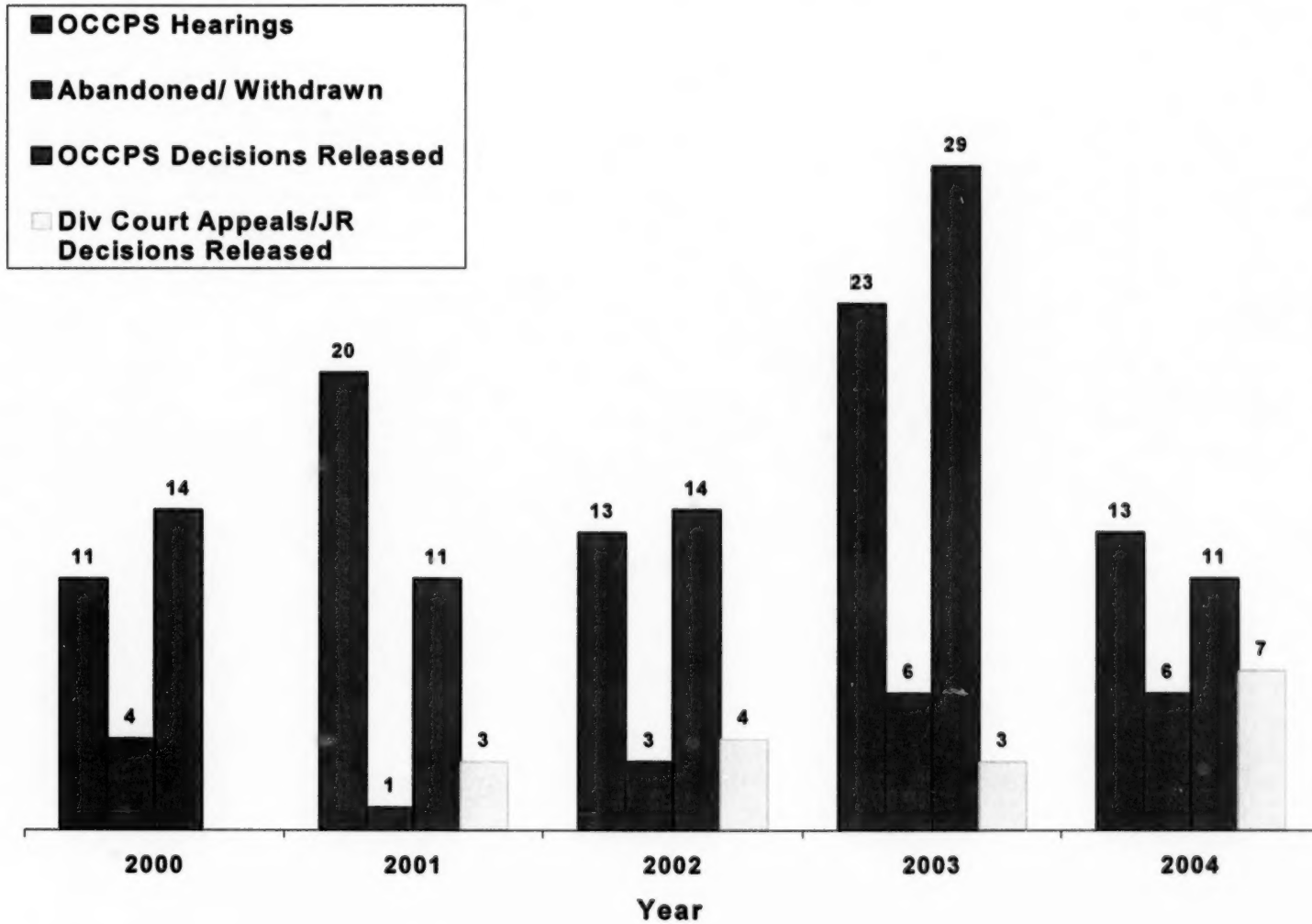
The official text of previous decisions can be found on the Commission's web site at www.occps.ca or obtained through the Commission office.

Disciplinary Appeals

Appeal Process



OCCPS Hearing Activity



Disciplinary Appeals Decisions - 2004

During 2004, the Commission heard 12 police officer appeals relating to disciplinary penalties.

The following list identifies the appellant, the police service and the date and outcome of the decision. The official text of the full decisions can be found on the Commission's web site at www.occps.ca or obtained through the Commission office.

Date	Officer/Police Service	Result
January 20, 2004	PARKER OPP	Convictions upheld; appeal dismissed
April 7, 2004	MILTON Toronto PS	Appeal allowed
May 6, 2004	YOUNAN OPP	Appeal denied
May 6, 2004	PACITTO Toronto PS	Conviction and penalty upheld; appeal dismissed
May 27, 2004	MOORE Durham Regional PS	Appeal dismissed
July 7, 2004	MIKALACHKI Toronto PS	Appeal dismissed
July 12, 2004	KENNEY OPP	Requirement to complete condition rescinded; penalty varied; appeal allowed in part.
September 16, 2004	BOOMHOUR Durham Regional PS	Conviction upheld; appeal dismissed
October 13, 2004	COURAGE Niagara Regional PS	Motion to introduce fresh evidence denied. Finding of not guilty revoked; conviction substituted. Appeal allowed

Date	Officer/Police Service	Result
November 5, 2004	BLAKELY Quinte West PS Fred Parker (Complainant)	Parker appeal allowed; Blakely appeal dismissed
December 14, 2004	BUCKLE OPP	Appeal premature
December 30, 2004	DINSDALE OPP	Appeal allowed

The following pages provide summaries of selected disciplinary appeal decisions.

Summary of Selected Disciplinary Appeal Decisions - 2004

CONSTABLE TERRY PARKER
Appellant

AND

ONTARIO PROVINCIAL POLICE
Respondent

Presiding OCCPS Members:
Peter Doucet, Member
Joe Mavrinac, Member

Appearances:
Lorna E. Boyd, for the Appellant
Ted Carleton, for the Respondent

Heard:
January 16, 2004

Date of Decision:
January 20, 2004

DISCREDITABLE CONDUCT - Criminal offences - Appellant acquitted on criminal charges of theft, breach of trust and assault - Appellant pled guilty to breach of release order and received absolute discharge - Disciplinary and criminal charges related to allegations that Appellant took \$650 from OPP and assaulted friend in automobile - Hearing Officer's assessment of credibility based on clear and convincing evidentiary foundation - Hearing Officer ordered Appellant to resign within 7 days or be dismissed - Disciplinary convictions upheld - Penalty not contested - Appeal dismissed.

CORRUPT PRACTICE - Failure to return money - Appellant ordered to resign within 7 days or be dismissed following conviction on disciplinary charges of discreditable conduct and corrupt practice - Appellant alleged to have kept money from drug raid and to have assaulted friend - Criminal charges dismissed except for breach of release order - Hearing Officer had necessary evidentiary foundation upon which to base findings of guilt - Appeal dismissed.

EVIDENCE - Credibility of witnesses - Appellant convicted on disciplinary charges of discreditable conduct and corrupt practice notwithstanding acquittal on criminal charges of assault, theft and breach of trust - Hearing Officer's conclusion of guilt based on tape recording of witness's conversation with

Appellant and witness's testimony - Findings with respect to credibility not void of evidentiary foundation - Penalty of dismissal failing resignation not contested and appropriate given Appellant's actions and untruthful explanations at disciplinary hearing - Appeal dismissed.

Summary of Reasons for Decision

Constable Parker contested his convictions on one charge of discreditable conduct and one charge of corrupt practice. He did not challenge the penalty imposed, resign within 7 days or be dismissed.

The charges arose from allegations that Constable Parker took \$650 from the OPP, in the form of funds resulting from a drug raid, which had been turned over to him for evidentiary safekeeping. The Appellant stated that he placed the funds in his drug locker at the Malden detachment, but when the evidence was required for court, the funds were missing. Constable Parker was also alleged to have assaulted his friend, CW, in the course of a heated conversation. At the disciplinary hearing CW testified that she found an envelope containing \$600 in the Appellant's closet and later, the same envelope, now empty, in the trunk of his car. CW confronted the Appellant about the money. Her concerns were not allayed by his explanation, and eventually she decided to tape a conversation with the Appellant. The taped conversation contained admissions by the Appellant that amounted to a confession. However, at the disciplinary hearing the Appellant attempted to explain away the taped conversation. The Hearing Officer found the Appellant to be an evasive witness, and lacking in credibility. He found CW credible and truthful, on the matter of the assault as well as the missing money.

The Appellant made no submissions as to penalty, instead maintaining his innocence. The Respondent submitted that the Hearing Officer's conclusions were based on solid evidence, and the Commission should not interfere.

Held: Convictions upheld; appeal dismissed.

The record revealed that other people had access to the drug locker, and the Malden facility was less than secure. However, there was other evidence which supported findings of guilt, and this evidence was clear and convincing - viz. the taped conversation, as well as CW's testimony. The Hearing Officer's analysis of the evidence was thorough, and he had the necessary evidentiary foundation upon which to base his findings that the Appellant was not credible, and was guilty of the disciplinary offences. The Appellant didn't contest the penalty, which was appropriate in any event, given his actions and his lack of truthfulness at the disciplinary hearing.

SERGEANT MICHAEL YOUNAN
Appellant

AND

ONTARIO PROVINCIAL POLICE
Respondent

Presiding OCCPS Members:

Murray W. Chitra, Chair
Peter J. Doucet, Member

Appearances:

Gavin J. May, for the Appellant
Ted Carlton, for the Respondent

Heard:

April 2, 2004

Date of Decision:

May 6, 2004

PROCEDURAL ISSUES - Non-suit - Appeal of interlocutory ruling made during course of disciplinary hearing - Appellant brought motion for non-suit after prosecution closed its case - Hearing Officer put Appellant to his election whether to call evidence - Commission has no jurisdiction to hear appeals from interlocutory orders - Disciplinary hearing to continue - Appeal of non-suit order denied.

JURISDICTION - Appellate powers - Appellate jurisdiction as defined by s. 70(1) of *Police Services Act* - Appeals may be had to Commission "after a hearing" under s. 64(7) or s. 65(9) - Jurisdiction of Commission limited to appeals of final orders - Appeal of interlocutory ruling denied.

JURISDICTION - Statutory constraints - Motion for non-suit brought during course of disciplinary hearing - Appeal from decision of Hearing Officer to put Appellant to his election to call evidence - Appellate jurisdiction of Commission limited to final orders - Appeal of non-suit order denied.

EVIDENCE - Non-suit - Process followed in Ontario to require defendant or moving party to elect whether or not to call evidence at conclusion of plaintiff's evidence - Hearing Officer put Appellant to his election - Commission's jurisdiction limited to appeals of final orders - Appeal from interlocutory ruling denied.

Summary of Reasons for Decision

Sergeant Younan was charged with one count of discreditable conduct. The disciplinary hearing began on August 19, 2003 and continued on August 20th. After the prosecution closed its case, counsel for Sergeant Younan brought a motion for non-suit - a process used in civil proceedings for asserting that a plaintiff has not made out a prima facie case. The Hearing Officer required Sergeant Younan to elect whether to call evidence, as a pre-condition of ruling on the motion for non-suit. Sergeant Younan appealed this decision to the Commission.

Pursuant to s. 70(1) of the *Police Services Act*, a police officer or complainant may appeal a decision to the Commission "after a hearing" held under s. 64(7) or s. 65(9).

Held: Appeal denied.

The wording found in s. 70(1), "after a hearing" was the same wording as that found in the appeal section of the *Human Rights Code*. The Divisional Court had previously determined that this wording in the *Human Rights Code* meant that only final orders of the Board of Inquiry could be appealed (**Roosma**). Later the Divisional Court found the same limitation after examining the public complaints provisions of the *Police Services Act* (**McCann**). Similarly, the appellate jurisdiction of the Commission was limited to final orders. While in some cases it might be difficult to distinguish interlocutory orders from final orders, in this case the Hearing Officer's ruling was clearly interlocutory: it was entirely procedural in nature, it did not determine all of the issues in a final way, and it lacked the potential to do so. This was in contrast to the situation in **Gough and Peel Regional Police Service** (OCCPS #03-14), where a motion was brought that was akin to a civil motion for summary judgment.

In Ontario the prevailing practice in non-suit motions was to put the moving party (defendant) to his or her election whether to call evidence. If the defendant elected not to call any evidence, then the case would be closed and proceed to argument. Given the consequences of electing not to call any evidence, motions for non-suit were seldom seen in police disciplinary proceedings.

The appeal was premature, and the Commission lacked jurisdiction to hear an appeal from an interlocutory ruling.

SUSAN MANCINI
Appellant

AND

CONSTABLE MARTIN COURAGE
(NIAGARA REGIONAL POLICE SERVICE)
Respondent

Presiding OCCPS Members:
Murray W. Chitra, Chair
Brenda Weese, Member

Appearances:
Bruce Robertson, for the Appellant
Brian R. Simpson, for the Respondent

Heard:
April 15, 2004

Date of Decision:
August 12, 2004

DISCREDITABLE CONDUCT - Disorderly or prejudicial conduct -
Applicable test - Reasonable expectations of the community - Essential issue whether or not reasonable person in the community would find officer's conduct likely to discredit reputation of police force - Hearing Officer found Respondent not guilty of discreditable conduct - Decision tainted by errors - Finding revoked - Conviction substituted - Appeal allowed.

DISCREDITABLE CONDUCT - Disorderly or prejudicial conduct -
Harassment - Complainant appealed decision of Hearing Officer finding Respondent not guilty of discreditable conduct - Continued contact with Appellant following break-up of relationship - Finding that course of vexatious conduct not proven was tainted by irrelevant considerations - Finding revoked - Conviction substituted - Appeal allowed.

HEARING OFFICERS - Reviewable errors - Respondent officer found not guilty of discreditable conduct - Hearing Officer's analysis tainted by irrelevant and subjective considerations such as perceptions of Respondent's superiors and state of mind of Appellant - Reasonable expectations of community proper test to be applied in cases of discreditable conduct - Finding revoked - Conviction substituted - Appeal allowed.

EVIDENCE - Fresh evidence - Motion to introduce affidavit by Appellant's sister - Not new evidence - Evidence not meeting other criteria of relevance, credibility and potential to alter result of disciplinary process - Motion denied.

Summary of Reasons for Decision

Ms. Mancini appealed the decision of the Hearing Officer, dated June 27, 2003, in which he found Constable Courage, the Respondent, not guilty of discreditable conduct, contrary to s. 2(1)(a)(xi) of the Code of Conduct.

In the fall of 2000, Ms. Mancini and Constable Courage began a personal relationship. The Appellant purchased a house, supported in part by funds from the Respondent. Shortly after Constable Courage moved into the house, the relationship foundered. Events giving rise to the charge of discreditable conduct began on August 16, 2001 when Ms. Mancini called the police to report an "unwanted person". On this occasion Constable Courage, after refusing to leave the house based on his belief that he was entitled to remain, was arrested to prevent a breach of the peace. After this event he was advised by superior officers not to return to the house and not to contact the Appellant. However, Constable Courage regarded such comments as advice, rather than a direct order. After he moved out of the house, on several occasions Constable Courage appeared at the Appellant's place of employment, once while on duty and in uniform. He also called her at home. On one occasion, while driving by Ms. Mancini's house, he enlisted the help of a child in delivering a love note to Ms. Mancini. Meanwhile, Ms. Mancini had been meeting with the service's Domestic Violence Coordinator, who assured her that Constable Courage would be told to stay away from her home and her place of work.

Constable Courage was charged with discreditable conduct, specifically, engaging "...in a course of behaviour that was known to be vexatious..." by continuing contact with Ms. Mancini after being told that his actions were improper and to cease.

The Hearing Officer found all witnesses to be credible, with the exception of Ms. Mancini's sister, who had testified concerning intimate contact that she had had with Constable Courage more than two decades earlier. The Hearing Officer based his decision on events "as a whole", and found the Respondent not guilty of persistent or vexatious conduct likely to bring discredit upon the force.

The Appellant brought a preliminary motion to introduce new evidence, in the form of an affidavit from her sister. Counsel for the Appellant submitted that the proper standard for review of the Hearing Officer's decision was correctness. Ms. Mancini's position with respect to the appeal was that the Hearing Officer made a number of errors, and the decision should be set aside, with a finding of guilt, and an assessment of 60 hours loss of pay, together with a cease and desist order. Alternatively, the Appellant requested the Commission to order a

new hearing, or order mandamus to compel the Hearing Officer to reconsider his decision, or award her costs on an indemnity basis.

The Respondent opposed the motion to introduce fresh evidence, and submitted that the burden of proof was "clear and convincing evidence", and that the test to be applied was whether the officer's conduct could objectively be viewed as discreditable. Further, the Respondent argued that the Commission had no authority to order the range of remedies requested by the Appellant.

Held: Motion to introduce fresh evidence denied. Finding of not guilty revoked; conviction substituted. Appeal allowed.

The proposed new evidence was not in fact new, since Ms. Mancini's sister had testified about the issues contained in the affidavit during the disciplinary hearing and had been cross-examined in relation thereto. The Hearing Officer had rejected her testimony. Applying the criteria in **Palmer v. Her Majesty the Queen** (1980), 1 S.C.R. 759, the evidence was therefore, in addition to not being new, not credible, not relevant, and not likely to affect the result.

The Hearing Officer's "as a whole" approach to the assessment of evidence was problematic, in that any single act articulated in a statement of particulars could contravene the Code of Conduct. Nevertheless, the Hearing Officer identified the correct burden of proof (clear and convincing) as well as the correct test for a finding of discreditable conduct (reasonable expectations of the community). However, he also introduced some irrelevant and subjective elements in the analysis: the perceptions of Constable Courage's superior officers (that they did not see the Respondent's actions as discrediting), knowledge of bank patrons about the Respondent's occupation, the state of mind of Ms. Mancini or the nine-year old enlisted to deliver the letter. Such considerations were irrelevant to the assessment of whether Constable Courage's conduct was discreditable in the eyes of the public. Moreover, given that the Respondent was not charged with insubordination, the Hearing Officer inappropriately placed significance on the fact that Constable Courage was not "ordered" by his superior officers to have no further contact with Ms. Mancini.

As a result, the decision was sufficiently tainted that it could not stand. In terms of remedy, the Commission could only vary or revoke the decision or substitute its own, per s. 70(6) of the *Police Services Act*. Thus requests for a new hearing, mandamus, costs or a cease and desist order were beyond the jurisdiction of the Commission.

In various aspects, the conduct of Constable Courage was likely to lead reasonable members of the community to question the reputation of the service, and in particular, its commitment to deal effectively with domestic disputes. Therefore the Commission revoked the finding of not guilty and substituted a conviction on one count of discreditable conduct. The Appellant had proposed a 60-hour penalty. The Respondent was ordered to provide written submissions on penalty within 30 days.

SUSAN MANCINI
Appellant

AND

CONSTABLE MARTIN COURAGE
(NIAGARA REGIONAL POLICE SERVICE)
Respondent

Presiding OCCPS Members:
Murray W. Chitra, Chair
Brenda Weese, Member

Appearances:
Bruce Robertson, for the Appellant
Brian R. Simpson, for the Respondent

Written Submissions:
September 10, 2004

Date of Decision:
October 13, 2004

SENTENCING - Penalties - Financial penalties - Domestic dispute -
Continued contact with Appellant found to constitute discreditable conduct -
Given Respondent's lengthy positive work record and absence of further
incidents, financial penalty appropriate - Penalty resulting in loss of longevity pay
would be excessive - Reprimand and loss of 25 hours pay ordered.

Summary of Reasons for Decision

In Decision # 04-09, the Commission revoked the finding of the Hearing Officer and substituted a determination of guilt against Constable Courage, the Respondent. In pursuing contact with Ms. Mancini, the Appellant, after she had clearly indicated her wish to terminate their personal relationship, the Respondent was found to be guilty of discreditable conduct. At issue in this decision was the appropriate penalty.

Counsel for the Respondent submitted that a penalty of 12 hours loss of pay would be appropriate, while counsel for the Appellant argued that 60 hours was warranted. At the disciplinary hearing the Prosecutor had suggested 30 hours. Held: Written reprimand and loss of 25 hours pay imposed.

Although there was no suggestion that Constable Courage was ever violent or threatened physical harm to Ms. Mancini, nevertheless his conduct was likely to be viewed by a reasonable person in the community as diminishing respect in the force's capacity or commitment to deal effectively with domestic disputes. As such it was not minor in nature, but rather serious.

Applying the factors typically taken into account when assessing penalty, no mitigation was warranted for recognition of the seriousness of Constable Courage's actions. Handicap, provocation and management approach were also not issues in this case.

Given his lengthy, (27 years of experience) positive work record and the absence of further incidents, a financial penalty was appropriate. Twelve hours loss of pay was insufficient to address the nature of the misconduct; however a penalty of more than 40 hours would result in Constable Courage losing longevity pay under the collective agreement, in the amount of \$6,000, which would be an excessive penalty.

The Commission ordered that Constable Courage be reprimanded and lose 25 hours pay, with the stipulations that the instant decision be placed on his file for a minimum of 2 years, and that the loss not be satisfied through accumulated vacation, sick leave, overtime or other credits.

FRED PARKER
Applicant

AND

SERGEANT RANDY BLAKELY
(QUINTE WEST POLICE SERVICE)
Respondent

Presiding OCCPS Members:
Peter J. Doucet, Member
Krishan D. Uppal, Member

Appearances:
George Bonn, for the Applicant
Joanne Mulcahy, for the Respondent

Heard:
April 29, 2004

Date of Decision:
May 13, 2004

JURISDICTION - Appellate powers - Motion for leave to appeal by complainant - Denial of request to amend notice of charge against Respondent - Pursuant to s. 70(1) of *Police Services Act*, Commission's jurisdiction limited to appeal of final orders made "after a hearing".

LEAVE TO APPEAL - Complainants - Misconduct decision - Clear wording of s. 70(3) of *Police Services Act* conferring right to appeal misconduct decision - Applicant not requiring leave to appeal.

LEAVE TO APPEAL - Complainants - Penalty decision - No automatic right to appeal penalty - Criteria to be met for exercise of Commission's discretion to grant leave to appeal under s. 70(4) of *Police Services Act* - Matters raised in appeal of significant importance to policing profession and community - Leave to appeal granted.

CHARTER - Complainant sought leave to appeal penalty imposed on Respondent - Issues raised by appeal involving fundamental rights under *Canadian Charter of Rights and Freedoms* - Appropriate to grant leave to appeal pursuant to s. 70(4) of *Police Services Act*.

Summary of Reasons for Decision

The Applicant, Mr. Parker, brought three motions seeking leave to appeal three decisions:

- 1) denial of a request to amend the charge notice against Sergeant Blakely, to include a reference to Sergeant Blakely's failure to bring the accused before a Justice of the Peace within the time-limits prescribed by the *Criminal Code*;
- 2) the misconduct decision of the Hearing Officer concerning delay in affording right to counsel;
- 3) the penalty decision of a reprimand.

Held: With respect to the first motion, the Commission 's appellate jurisdiction, pursuant to s. 70(1) of the *Police Services Act*, was limited to appeals of final orders, issued "after a hearing". The Commission had no jurisdiction to hear appeals of interlocutory orders.

With respect to the second motion, no leave to appeal was required pursuant to s. 70(3) of the *Act*; rather, appeal was by way of right - that is, a complainant had a right to initiate an appeal from a decision concerning misconduct.

By contrast, and with respect to the third motion, a complainant had no automatic right to appeal a penalty decision under s. 70(4) (" the Commission may hold a hearing, if it considers it appropriate..."). The Commission should exercise its discretion to grant leave if one of three criteria were met: the decision was clearly wrong on its face; the existence of a conflicting decision of the Commission on a matter; if the appeal raised issues of significant importance to the policing profession and the community. This appeal raised important issues concerning the appropriate range of penalty in the face of an alleged breach of fundamental rights under the *Charter of Rights and Freedoms*. Therefore it was appropriate to grant leave to appeal the penalty decision.

FRED PARKER
Appellant/Respondent

AND

SERGEANT RANDY BLAKELY
(QUINTE WEST POLICE SERVICE)
Respondent/Appellant

Presiding OCCPS Members:

Peter J. Doucet, Member

Krishan D. Uppal, Member

Appearances:

Harry G. Black, Q.C., for Sgt. Blakely

George Bonn, for F. Parker

Heard:

August 30, 2004

Date of Decision:

November 5, 2004

CHARTER - Legal rights - Right to counsel - Appellant was detained without right to counsel for period of 27 hours and 45 minutes - Hearing Officer found initial denial of right to counsel justified based on safety concerns but denial of right once threat was over not justified - Serious denial of fundamental right - Penalty of reprimand inadequate - Six-month demotion substituted - Appeal allowed.

SENTENCING - Penalties - Reprimand - Violation of right to counsel - Reprimand inadequate in terms of addressing seriousness of violation of fundamental rights under *Charter of Rights and Freedoms* and deterrence of such violations - Manifest error in principle - Six-month demotion substituted for reprimand - Appeal allowed.

NEGLECT OF DUTY - Violation of citizen's right under s. 10(b) of *Charter of Rights and Freedoms* - Parker held incommunicado to allow officers to conduct raid on associate's property - Hearing Officer found Sgt. Blakely should have allowed Parker to exercise s. 10(b) rights once threat to officers' safety and to security of evidence was over - No manifest error in finding of misconduct - Appeal dismissed.

Summary of Reasons for Decision

Fred Parker and Sgt. Blakely both appealed the decision of the Hearing Officer, dated July 3, 2003, in which she found Sgt. Blakely guilty of neglect of duty. Mr. Parker also appealed the penalty of a reprimand, imposed on August 27, 2003.

Mr. Parker was arrested on December 20, 1998 at 2:45 p.m., in the company of James Zebedee, who had a long criminal record and who was known to the police as a violent and dangerous criminal. The family of James Zebedee was similarly notorious. Under the direction of Sgt. Blakely, Mr. Parker was held incommunicado for 27 hours and 45 minutes, for the reason that officers intended to conduct a raid on the Zebedee property later that day. Sgt. Blakely was concerned about officer safety and the preservation of evidence. The Zebedee farm was raided at 11:30 p.m. on December 20th and by 12:50 a.m. on the 21st, the property was secured. By 3:15 p.m. on December 21st, Sgt. Blakely's concerns had ceased. Mr. Parker was permitted to call his lawyer at 5:05 p.m.

The Hearing Officer found that while the initial denial of Mr. Parker's right to counsel under s. 10(b) of the *Charter of Rights and Freedoms* might be justified based on legitimate safety concerns, the violation of his rights under s. 10(b) began at 3:15 p.m. on December 21st, when the perception of threat was over.

Mr. Parker argued that the denial of his rights began earlier. He also appealed the penalty, arguing that a one-year demotion was a more appropriate penalty.

Sgt. Blakely challenged his conviction.

Held: Parker appeal allowed; Blakely appeal dismissed.

The issues raised by these appeals included the appropriate balance to be struck between legitimate safety concerns and the right to counsel under s. 10(b), as well as the appropriate penalty for violation of fundamental rights under the *Charter*.

Section 10(b) of the *Charter* provided the right on arrest or detention to retain and instruct counsel "without delay". The importance and sanctity of this fundamental constitutional right was underscored in the jurisprudence. The sole source of reasonable limits on this right was s. 1 of the *Charter*. These reasonable limits had to be "prescribed by law", not imposed by the police at their discretion.

Once the farm was under police control, there was no reason for not allowing Mr. Parker to exercise his right to counsel. The repeated denial of this right was a serious violation of s. 10(b). The Hearing Officer concluded that Sgt. Blakely should have allowed Mr. Parker to exercise his s. 10(b) rights once he believed

the threat was over. There was no manifest error in that conclusion. Thus Sgt. Blakely's appeal of the finding of misconduct was dismissed.

However, the penalty portion of the decision did contain a manifest error in principle. A reprimand, the lowest possible penalty, was inadequate and not proportional to the offence. A reprimand was insufficient to remind Sgt. Blakely, and the policing profession as a whole, that a denial of the right to counsel "without delay" was a serious matter, and that such denials should be "rare" and "most carefully considered." Thus Mr. Parker's appeal of penalty was allowed. A six-month demotion was substituted for the reprimand, with a reinstatement to Sgt. Blakely's former rank at the end of six months.

Appeals and Judicial Reviews - Ontario Court of Justice

The following is a list of Commission decisions that were subject to Judicial Appeal or Review where the courts rendered their decision in 2004. A full text of the Judicial Appeal or Review decisions can be obtained at http://www.ontariocourts.on.ca/divisional_court/index.htm.

Year	Parties	Outcome
2004	Cst. Juan Blowes-Aybar/Toronto PS	Appeal abandoned.
2004	Cst. Juan Blowes-Aybar/Toronto PS	Divisional Court decision rendered April 22/04.
2004	Cst. Kevin Brannagan/Peel Regional PS	Appeal dismissed Sept. 24/04 without costs.
2004	Cst. Robert Coon/Toronto PS	Abandoned February 13/04.
2004	Cst. A.L. Favretto/OPP	Ontario Court of Appeal decision released Oct. 20/04. Overturned Divisional Court decision dated Dec. 2/03. Divisional Court ordered new hearing July 9/04.
2004	Norman Gardner, Toronto Police Services Board	Leave to Appeal denied to Commission on October 20/04. Mr. Gardner resigned from Board on November 1/04.
2004	S/Sgt. Kenneth Kyle/York Regional PS	Appeal abandoned April 21/04.

Year	Parties	Outcome
2004	David Packer (formerly of the Toronto Police Service)	Application dismissed on March 22/04.
2004	Prescott (Town of)	Commission Leave to Appeal of Divisional Court decision dated Nov. 3/03 denied.
2004	Deborah Shaw/Windsor PS	Windsor Police Service Leave to Appeal from Divisional Court dated Dec. 1/03 denied.

Public Complaints

Part V of the Police Services Act mandates the Commission as the review body for public complaint decisions made by chiefs of police and the Commissioner of the Ontario Provincial Police.

Complaints may be made about the conduct of a police officer (including the chief of police or Commissioner), the policies of a police service or the services provided by a police service. Only the individual directly affected can file a complaint and the complaint must be in writing and signed.

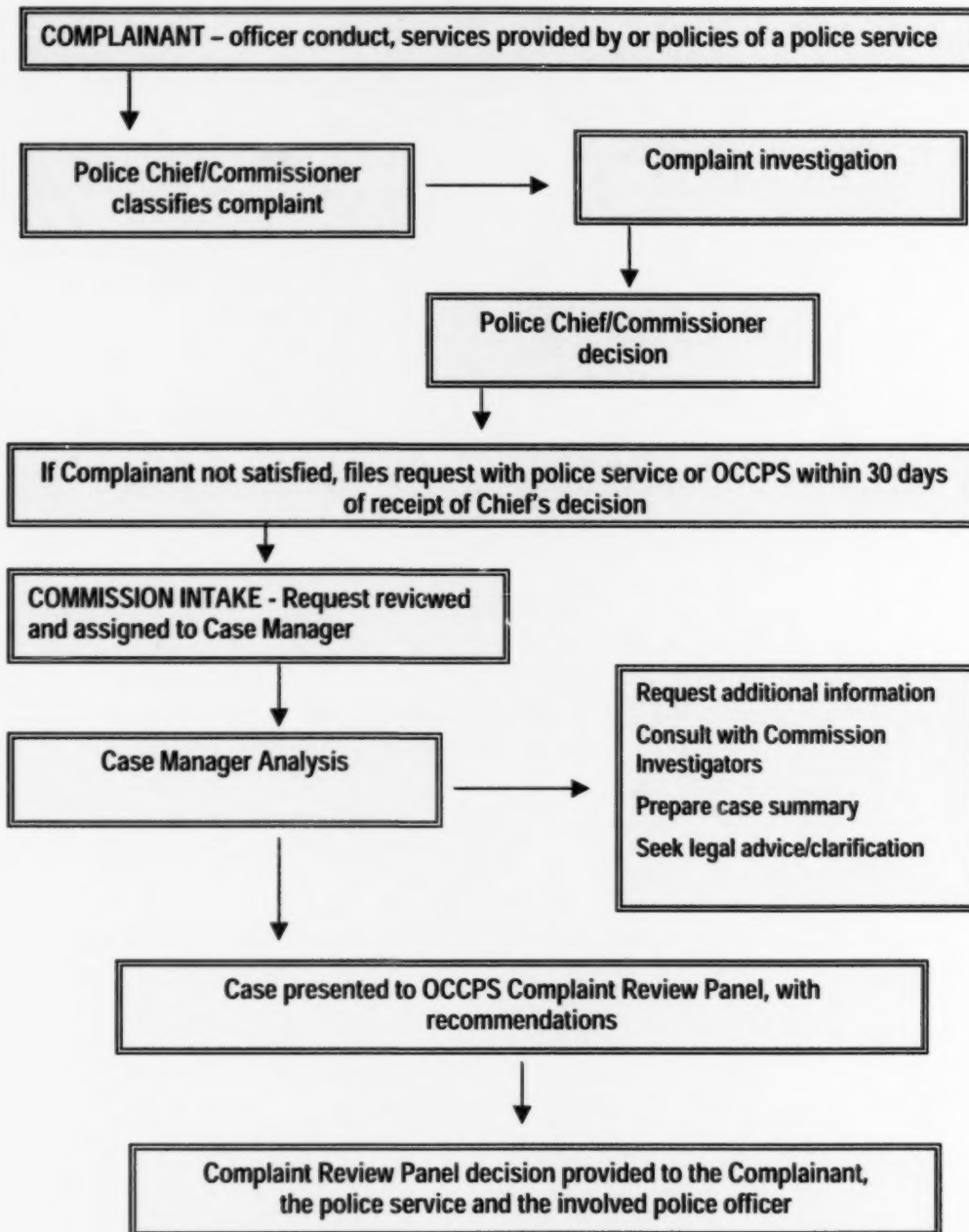
If the individual involved is not satisfied with the decision of the chief or Commissioner of the Ontario Provincial Police, the complainant has 30 days to write to the Ontario Civilian Commission on Police Service and request a review. To conduct the review, the Commission requests information from the complainant as well as the investigation file from the involved police service. Case Managers analyze each file and prepare a written case summary that is presented to a Review Panel composed of Commission members.

On review, the Commission may confirm the decision of the chief or they may vary the decision. The Review Panel may vary the decision to less serious misconduct, direct a public hearing or return the file to the involved police service or another police service for further investigation.

In 2004, there were 3110 public complaints filed against the 21,835 sworn police officers or their police services in Ontario. This represents a slight increase of 245 complaints made against the 21,412 sworn police officers for 2003. During 2004, the Commission received 562 requests for review, an increase of 74 requests from the previous year.

An overview of the complaints review process, a statistical summary of public complaints from 1998 to 2004 and samples of complaint review case summaries are contained on the following pages.

Overview of Public Complaints Process



Statistical Charts

The following four charts depict:

- The number of public complaints against police officers in Ontario for the period 1998 – 2004
- 2004 Police Service Complaints Activity
- The reviews requested by complainants for the period 1998 – 2004
- OCCPS review statistics 2000-2004

PUBLIC COMPLAINTS AGAINST POLICE OFFICERS IN ONTARIO + 1998 – 2004

1998	2,538
1999	2,665
2000	2,753
2001	2,805
2002	2,829
2003	2,845
2004	3110

+ Source: Police Services Self Reported

Police Service Complaints Activity by Service, 2004

2004 Police Services	Total Officers subject to Part V	TOTAL PUBLIC COMPLAINTS 2004	TOTAL PUBLIC COMPLAINTS – CONDUCT	TOTAL PUBLIC COMPLAINTS – SERVICE	TOTAL PUBLIC COMPLAINTS – POLICY	PUBLIC COMPLAINTS CARRIED FROM PREVIOUS YR	ALLEGATIONS - Incivility	ALLEGATIONS - Neglect of Duty	ALLEGATIONS - Discreditable Conduct	ALLEGATIONS - Excessive Use of Force	ALLEGATIONS - Exercise of Authority	ALLEGATIONS - Unsatisfactory Work Performance	ALLEGATIONS - Other	NOT DEALT WITH (Section 59)	RESOLUTION - Informal (Conduct)	WITHDRAWN	UNSUBSTANTIATED	INFORMAL DISCIPLINE	HEARING	LOST JURISDICTION	OUTSTANDING INVESTIGATIONS (December 2004)
Amherstburg	30	8	7	0	1	1	6	2	2	2	3	0	0	0	0	1	5	1	0	0	1
Atikokan	11	2	2	0	0	0	0	0	2	0	0	0	0	1	0	0	0	0	0	0	1
Aylmer	13	2	2	0	0	0	0	0	0	1	1	0	0	0	0	0	2	0	0	0	0
Barrie	170	33	32	0	1	1	14	15	0	4	1	0	1	9	9	4	4	1	0	0	6
Belleville	80	18	14	4	0	0	2	4	2	5	5	0	0	4	1	2	6	1	0	0	4
Brantford	137	26	25	0	1	4	3	9	2	7	8	0	0	8	0	1	6	2	1	0	8
Brockville	42	9	9	0	0	0	4	0	0	2	1	0	1	0	3	2	2	0	0	0	2
Chatham Kent	163	23	18	4	1	0	7	6	1	4	2	0	3	1	7	2	10	0	0	0	0
Cobourg	38	8	8	0	0	0	3	3	1	1	0	0	0	0	0	1	3	3	1	0	0
Cornwall	56	13	11	0	2	0	2	3	2	2	2	0	2	0	5	2	6	0	0	0	0
Deep River	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dryden	20	3	3	0	0	0	1	0	0	1	1	0	0	1	0	0	1	1	0	0	0
Durham Regional	865	112	98	5	0	1	0	21	62	17	19	0	3	16	11	29	27	1	1	0	16
Espanola	11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Essex	28	2	1	1	0	0	0	0	0	0	1	0	1	0	0	1	0	0	0	0	1
Gananoque	15	3	2	1	0	1	0	2	0	1	0	0	0	1	0	0	1	0	0	0	0
Guelph	173	15	13	1	1	0	4	2	2	3	1	0	1	1	0	6	6	0	0	0	2
Halton Regional	522	64	61	0	3	9	0	2	55	3	0	0	1	13	12	19	21	4	2	0	5

Police Service Complaints Activity by Service, 2004

2004 Police Services	Total Officers subject to Part V	TOTAL PUBLIC COMPLAINTS 2004	TOTAL PUBLIC COMPLAINTS — CONDUCT	TOTAL PUBLIC COMPLAINTS — SERVICE	TOTAL PUBLIC COMPLAINTS — POLICY	PUBLIC COMPLAINTS CARRIED FROM PREVIOUS YR	ALLEGATIONS - Incivility	ALLEGATIONS - Neglect of Duty	ALLEGATIONS - Discreditable Conduct	ALLEGATIONS - Excessive Use of Force	ALLEGATIONS - Exercise of Authority	ALLEGATIONS - Unsatisfactory Work Performance	ALLEGATIONS - Other	NOT DEALT WITH (Section 59)	RESOLUTION - Informal (Conduct)	WITHDRAWN	UNSUBSTANTIATED	INFORMAL DISCIPLINE	HEARING	LOST JURISDICTION	OUTSTANDING INVESTIGATIONS (December 2004)
Hamilton	730	141	135	6	0	0	0	0	0	26	10	0	3	38	16	8	86	5	0	0	20
Hanover	13	3	2	1	0	0	2	0	0	1	0	0	0	0	1	1	0	0	0	0	1
Kawartha Lakes City of (formerly Lindsay)	35	8	8	0	0	0	0	0	6	2	0	0	0	5	1	0	2	0	0	0	0
Kenora	33	3	3	0	0	0	1	0	0	2	0	0	0	0	0	1	2	0	0	0	0
Kingston	177	33	30	3	0	1	0	6	10	9	5	0	0	1	1	4	17	0	0	1	6
LaSalle	32	5	5	0	0	0	0	0	4	0	1	0	0	0	0	1	4	0	0	0	0
Leamington	39	5	5	0	0	0	0	1	1	3	0	0	0	1	2	0	0	0	0	0	2
London	535	83	74	4	5	0	11	18	7	23	6	7	11	2	0	4	59	12	2	1	2
Michipicoten Township	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Midland	25	5	5	0	0	3	2	1	0	2	0	0	0	0	3	1	2	0	0	1	1
Niagara Regional	653	97	94	0	3	15	8	11	11	30	14	5	15	30	6	16	29	0	1	0	12
North Bay	86	16	16	0	0	2	3	1	0	3	9	0	0	2	0	2	8	1	0	0	5
Ontario Provincial Police	5570	549	514	25	10	162	145	358	221	112	111	0	9	84	58	206	471	3	24	1	61
Orangeville	34	15	15	0	0	1	3	1	3	6	2	0	0	3	5	0	4	0	0	1	2
Ottawa	1161	218	211	3	4	61	0	18	152	41	0	0	0	24	10	69	44	3	0	0	61
Owen Sound	39	8	8	0	0	1	1	3	2	2	0	0	0	0	0	2	3	0	0	2	1
Oxford Community	79	9	9	0	0	0	6	1	0	0	1	0	1	2	3	0	1	0	0	0	3
Peel Regional	1606	185	180	5	0	0	71	19	0	19	2	0	74	6	81	48	42	3	0	0	27

Police Service Complaints Activity by Service, 2004

2004 Police Services	Total Officers subject to Part V	TOTAL PUBLIC COMPLAINTS 2004	TOTAL PUBLIC COMPLAINTS — CONDUCT	TOTAL PUBLIC COMPLAINTS — SERVICE	TOTAL PUBLIC COMPLAINTS — POLICY	PUBLIC COMPLAINTS CARRIED FROM PREVIOUS YR	ALLEGATIONS - Incivility	ALLEGATIONS - Neglect of Duty	ALLEGATIONS - Discriminable Conduct	ALLEGATIONS - Excessive Use of Force	ALLEGATIONS - Exercise of Authority	ALLEGATIONS - Unsatisfactory Work Performance	ALLEGATIONS - Other	NOT DEALT WITH (Section 59)	RESOLUTION - Informal (Conduct)	WITHDRAWN	UNSUBSTANTIATED	INFORMAL DISCIPLINE	HEARING	LOST JURISDICTION	OUTSTANDING INVESTIGATIONS (December 2004)
Pembroke	28	6	5	1	0	0	0	0	0	2	4	0	0	0	0	2	2	0	0	0	2
Perth	14	1	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Peterborough Lakefield	120	20	20	0	0	3	0	13	5	2	0	0	0	4	1	1	2	8	1	0	3
Port Hope	25	2	2	0	0	0	0	2	0	0	0	0	0	0	0	0	1	0	0	1	0
Sarnia	111	34	34	0	0	4	3	10	8	7	0	0	6	0	1	6	24	0	0	0	7
Sault Ste. Marie	130	26	25	0	1	2	3	4	4	7	6	0	2	2	0	1	15	0	0	0	7
Saugeen Shores	19	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Shelburne	8	1	0	1	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0
Smiths Falls	23	1	1	0	0	1	0	0	0	0	1	0	0	0	0	0	1	0	0	0	1
South Simcoe	69	3	3	0	0	0	0	0	0	2	0	0	0	1	0	0	2	0	0	0	0
St. Thomas	59	4	4	0	0	0	1	2	1	0	0	0	0	2	0	1	1	0	0	0	0
Stirling Rawdon	7	1	0	1	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0
Stratford	51	3	3	0	0	2	0	0	0	1	2	0	0	0	0	0	2	0	0	0	1
Strathroy Carodoc	30	2	2	0	0	1	0	0	0	0	2	0	0	2	0	0	1	0	0	0	0
Sudbury Regional	241	53	52	1	2	5	8	10	8	11	16	0	0	2	4	14	20	0	0	0	13
Temiskaming Shores (formerly New Liskeard)	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Thunder Bay	213	42	42	0	0	0	6	13	8	9	6	0	0	15	0	2	21	4	0	0	0
Timmins	79	16	15	1	0	10	0	1	0	7	7	0	1	0	0	2	5	3	0	1	5
Toronto	5241	862	486	38	3	14	4	72	302	*	95	0	0	335	97	100	203	9	2	0	116

* Excessive use of Force are combined with Exercise of Authority Statistics

Police Service Complaints Activity by Service, 2004

2004 Police Services	Total Officers subject to Part V	TOTAL PUBLIC COMPLAINTS 2004	TOTAL PUBLIC COMPLAINTS -- CONDUCT	TOTAL PUBLIC COMPLAINTS -- SERVICE	TOTAL PUBLIC COMPLAINTS -- POLICY	PUBLIC COMPLAINTS CARRIED FROM PREVIOUS YR	ALLEGATIONS - Incivility	ALLEGATIONS - Neglect of Duty	ALLEGATIONS - Discreditable Conduct	ALLEGATIONS - Excessive Use of Force	ALLEGATIONS - Exercise of Authority	ALLEGATIONS - Unsatisfactory Work Performance	ALLEGATIONS - Other	NOT DEALT WITH (Section 59)	RESOLUTION - Informal (Conduct)	WITHDRAWN	UNSUBSTANTIATED	INFORMAL DISCIPLINE	HEARING	LOST JURISDICTION	OUTSTANDING INVESTIGATIONS (December 2004)
Waterloo Regional	653	84	82	1	1	19	31	11	22	14	6	0	13	16	60	3	16	0	0	0	21
West Grey (formerly Town of Durham)	18	6	5	1	0	0	4	0	1	0	0	0	1	0	4	1	0	0	0	0	0
West Nipissing	19	3	3	0	0	1	0	0	1	0	1	2	0	0	0	0	4	0	0	0	0
Windsor	258	88	82	6	0	1	24	21	19	33	16	0	0	15	23	14	11	2	3	0	20
Wingham	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
York Regional	1095	124	122	2	0	31	30	21	39	20	11	0	3	30	5	13	45	1	0	4	24
Services disbanded during 2004 now OPP																					
Prescott	10	1	1	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0
Quinte West	59	3	3	0	0	0	1	1	0	1	0	0	0	0	0	0	3	0	0	0	0
TOTALS	21835	3110	2613	116	39	357	414	689	966	450	379	14	155	677	1354	595	1253	68	38	13	471

REVIEWS REQUESTED BY COMPLAINANTS **

1998 – 2004

1998	472
1999	420
2000	445
2001	491
2002	466
2003	488
2004	562

****Source: Ontario Civilian Commission on Police Services**

OCCPS REVIEW STATISTICS

2000-2004

	2000	2001	2002	2003	2004
Total Complaints Reported in Province*	2753	2805	2814	2845	3110
Reviews by OCCPS	452	494	466	488	562
Decisions Varied:	59	46	91	85	126
% of time Varied	13%	9%	20%	17%	22%
Hearings Ordered	12	13	19	30	18
Less Serious Misconduct	7	5	8	5	13
Further Investigation	34	15	39	31	67
Varied Classification	6	12	25	19	28
Less Serious to No Misconduct		1			

Summary of Selected Public Complaint Reviews

Unlawful Strip Search

The complainant's 14-year-old son was arrested for failing to Comply with his Recognizance for violating a court-imposed curfew by forty-five minutes. The 14-year-old was transported to the police station where he was strip searched, investigated and held pending a show cause hearing.

The police service investigated the complaint and determined that the allegation was unsubstantiated and no further action would be taken. The police service indicated that the officer-in-charge was complying with their policies and procedures when the strip search was ordered.

The complainant filed a request for a review with the Commission.

Decision: The panel confirmed the decision of the service that there was insufficient evidence of misconduct when the officer-in-charge complied with the service policy and authorized a strip search of a 14-year-old. However, the panel had serious concerns about a policy that was so broadly worded that it appeared that anyone entering the cells would be deemed to be entering a prison population and would be subjected to a strip search. The panel reclassified the complaint as a policy issue and referred the matter to the police service board recommending their procedures be reviewed to ensure the search of persons policy was consistent with the *Supreme Court of Canada* decision *R. V. Golden*.

Several months later after studying their procedures and receiving a report from their legal service division, the board amended the policy removing the provision for an automatic strip search and replacing it with a requirement for case by case analysis prior to a strip search being conducted.

Excessive Use of Force

An arrest warrant was obtained for the complainant and his residence was placed under surveillance. On his return home, the Emergency Response Team attended and executed the warrant. The complainant did not cooperate and was grounded during the arrest.

The complainant was transported to the police station where he alleged he was pistol-whipped and while he was being handcuffed he received an injury in his pelvis and abdomen area.

The complaint was not investigated by the service and was classified as frivolous, vexatious or made in bad faith.

Decision: It was the panel's decision this complaint did not meet the definition of a frivolous complaint and that "on its face" the allegation of excessive use of force had merit. The complaint was returned to the service to be further investigated and a second decision letter to be issued.

Intimidation and Harassment

The complainant lived next door to the officer's sister. There had been an ongoing neighbor dispute for several years about the property line between the two houses. The complainant alleged that when the officer visited his sister while off duty, he was intimidating and harassing the complainant's family by staring at them. One particular day when the complainant's husband was standing outside in the yard, the officer arrived off duty and was looking over at him. Her husband asked the officer what was he looking at and the officer allegedly replied, "You don't know what you are dealing with."

A complaint was filed and investigated by the service. It was determined that there was no evidence to support a nexus between the actions of their member and his official duties as a police officer. The complaint was classified as unsubstantiated.

Decision: After considering all the elements of the complaint, the panel decided that the complainant was not entitled to file the complaint, as it was her husband who was the affected party. It was the panel's direction that while the incident was unsubstantiated, the complaint should be reclassified and varied to "not directly affected."

Neglect of Duty and Incivility

The complainant was camping when it was alleged that she had a problem with four youths at another campsite who assaulted her and damaged her car. The complainant walked to a police station to report the assault and obtain assistance.

Two officers spoke to the complainant. She stated that because of her condition, she was finding it difficult to find the right words and finish her sentences. The complainant stated that one of the officers told her she sounded like a "skitso" and that the police were not a taxi service. She was told to come back when she had sobered up.

The complainant insisted that the officers drive her to back to her car. At the campground, the officers spoke to the youths to discover that three of the boys had violated a no-contact probation order. The youths were arrested and the officers transported them away from the scene.

The complainant filed a public complaint that alleged the officers did not conduct a criminal investigation, failed to lay charges and treated her with disrespect making her feel like a criminal.

The service investigated the complaint. In a written decision the complainant was notified that the complaint against the young, less experienced officer was unsubstantiated. However, the service did agree that the more experienced officer did commit less serious misconduct when he failed to conduct a full criminal investigation and when he was uncivil.

The complainant requested a review to the Commission.

Decision: It was the panel's decision to confirm the decision that the complaint against the younger officer remain classified as unsubstantiated. There was no evidence that he made any of the uncivil remarks, he had begun an investigation and taken a statement from another witness. Further, the panel determined that allegations against the other officer were serious in nature and there was sufficient evidence to warrant a hearing. The panel directed that a disciplinary hearing be initiated within 90 days.

First Nations Policing

The Constitution Act, 1867, assigned responsibility for the administration of justice to the provinces. Constitutionally and legislatively, Ontario is responsible for the delivery of policing services in all parts of the province, including First Nations.

In 1975, the Task Force on Policing led to the establishment of a tri-partite arrangement for funding the Ontario First Nations Policing Agreement. The Ontario Provincial Police administer the program and provide support. There has been a gradual transfer of administrative responsibility from the OPP to First Nations governing authorities. Some of the functions, which previously had been the exclusive responsibility of the OPP, have become jointly administered; others have been assumed completely by First Nations.

Section 54 of the Police Services Act, states that, "with the Commission's approval, the Commissioner may appoint a First Nations Constable to perform specific duties" and further, "if the specified duties of a First Nations Constable relate to a reserve as defined in the Indian Act (Canada), the appointment also requires the approval of the reserve's governing authority or band council."

First Nations Police are responsible for enforcing provincial and federal laws and band by-laws in First Nations Territories.

In the calendar year 2004, there were approximately 400 First Nations Constables serving in Ontario.